

EQUIPMENT LEASE

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INTERSTATE COMMERCE COMMISSION

THIS EQUIPMENT LEASE, made as of the 4<sup>th</sup> day of June, 1970, between A. A. MORRISON CO., INC., a New York corporation (hereinafter called the "Lessor"), and THE AKRON, CANTON & YOUNGSTOWN RAILROAD COMPANY, an Ohio corporation (hereinafter called the "Lessee");

W I T N E S S E T H:

WHEREAS, under date of March 31, 1955, the Lessor and Lessee entered into a Lease Agreement with respect to 200 50' 6" all steel box cars; and

WHEREAS, the term of said Lease will expire on June 30, 1970; and

WHEREAS, as of the date hereof there remain in the possession of the Lessee pursuant to said Lease 196 of said original 200 box cars; and

WHEREAS, the Lessee desires to retain possession of said 196 box cars after the termination of said prior Lease between the parties, and the Lessor is willing to lease said 196 box cars to the Lessee for a further term of years, at the rental, and upon the terms and conditions hereinafter provided in this Equipment Lease;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter

mentioned to be kept and performed by the Lessee, the Lessor hereby leases said 196 railroad box cars to the Lessee upon the following terms and conditions:

1. Description and Acceptance of Equipment.

The cars which are the subject of this Lease consist of 196 50' 6" 50-ton all steel box cars manufactured by the Pullman-Standard Car Manufacturing Company and now included in Lessee's Series 3501-3700. Such box cars are hereinafter referred to as the "Equipment" and are described by car number on Exhibit "A" attached hereto and made a part hereof.

The Lessee acknowledges that the Equipment has been in its uninterrupted possession since the same was originally delivered to the Lessee pursuant to a certain Lease between the parties dated March 31, 1955. The Lessee warrants and represents to the Lessor that all of the obligations of Lessee under said earlier Lease, including, but not limited to obligations with respect to maintenance and repair of the Equipment, have been duly, promptly and completely performed by the Lessee. The Lessee accepts the Equipment leased hereunder in such condition and at such place or places as such individual Items of Equipment may be located as of the effective date of this Lease, without any manner of representation, warranty or covenant, express or implied, of any kind whatsoever on the part of the Lessor, except that the Lessor warrants to the Lessee that it has good and marketable title to the Equip-

ment and is legally entitled to enter into this Lease without restriction or limitation.

In the event that, prior to the effective date of this Lease, any of the box cars which collectively constitute the Equipment shall be lost, destroyed or irreparably damaged as provided in paragraph "10" of the said Lease between the parties dated March 31, 1955, then this Lease shall be effective as to and shall apply fully with respect to the remaining box cars which shall then constitute the Equipment.

2. Rentals and Payment Dates.

The Lessee agrees to pay the Lessor for the use of the Equipment, during the term of this Lease, the amount of \$1.75 per car per day from the effective date of this Lease and throughout the term hereof. Such rent shall be paid in advance on the first day of each month for that month.

All payments provided for in this Lease to be made to the Lessor shall be made to the Lessor at 120 Delaware Avenue, Buffalo, New York, or at such other place as the Lessor or its assigns shall specify in writing.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise nor except as otherwise expressly provided herein, shall this Lease terminate, or the obligations

of the Lessee be otherwise affected by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to paragraph 10 hereof, or until, pursuant to paragraph 12 hereof, the Equipment is placed and ready for delivery to the Lessor on the Lessee's lines, or is stored for the Lessor on the Lessee's lines or leaves the Lessee's lines for off-line delivery to the Lessor.

3. Effective Date and Term of this Lease.

The effective date of this Lease shall be July 1, 1970, and the term of this Lease as to each Item of Equipment leased hereunder shall begin on said date and shall continue for a period of five (5) years from the date thereof, that is, on July 1, 1975.

4. Title to the Equipment.

The Lessee will cause each Item of Equipment to be kept numbered with its road number as set forth in said Exhibit "A" and will keep and maintain, plainly, distinctly, permanently and conspicuously upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Property of A. A. Morrison Co., Inc.,  
Owner and Lessor  
Marine Midland Trust Company of Western  
New York, Mortgagee"

with appropriate changes thereof and additions thereto as from time to time may be required by law or by the holder of any such security interest in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any holder of any such security interest or of any assignee under paragraph 17 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification or the right of the Lessee to use the Equipment under this Lease.

The Lessor shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

5. Indemnification.

From and after the date hereof until the termination of this Lease, the possession, use, operation and maintenance of the Equipment shall be at the sole risk and expense of the Lessee. The Lessee shall defend, indemnify and save harmless the Lessor and any assignee under paragraph 15 hereof from and against (a) any and all loss of or damage to the Equipment, usual wear and tear excepted, and (b) any claim, cause of action, damages or liability (including counsel fees and expenses in connection therewith) which the Lessor or any such assignee may incur in any manner by reason of its ownership of, which may arise in any manner out of, or as a result of, the use or operation of any Item of Equipment, or by reason of its condition (whether defects are latent or patent), or as a result

of claims for patent infringements, during the term of this Lease, regardless of whether such claims are made during or subsequent to termination.

6. Rules, Laws and Regulations.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the Department of Transportation, and the Interchange Rules or supplements thereto, of the Mechanical Division, Association of American Railroads) from time to time in effect with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance on any such Item of Equipment shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, replacements and additions at its own cost and expense.

7. Use and Maintenance of Equipment.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee agrees that the Equipment will be used solely on its own lines and upon the lines of railroads in the continental United States and the Dominion of Canada in the usual interchange of traffic; provided,

however, that any use in Canada shall be incidental and temporary. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted. The Lessee shall not modify any Item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

8. Liens on the Equipment.

The Lessee shall pay or satisfy and discharge any and all claims against, through, or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this paragraph "8" shall survive termination of the Lease.



9. Filing; Payment of Fees and Taxes.

Prior to the effective date of this Lease, the Lessee will, at its sole expense, cause this Lease to be duly filed, registered or recorded in conformity with Section 20c of the Interstate Commerce Act and in such other places as the Lessor may reasonably request for the protection of its title and will furnish the Lessor proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to the Equipment to the satisfaction of the Lessor's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action.

The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of Equipment, and other taxes (excluding any tax measured

by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessee agrees to pay that portion of any such tax on or measured by rents and payable hereunder or the net income therefrom which is in direct substitution for, and which relieves the Lessee from, a tax on the Equipment which the Lessee would otherwise be obligated to pay under the terms of this paragraph "9"), together with any penalties or interest thereon, imposed by any state, federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of Lessor; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i) so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment, however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessee, until twenty (20) days after written notice thereof shall have been given to the Lessee.

10. Payment for Casualty Occurrence.

In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged (within

the meaning of the Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads) from any cause whatsoever, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease (and such occurrence, except for any requisition which by its terms does not exceed the remaining term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Lessor in regard thereto, and shall thereupon pay to the Lessor the Casualty Value (as herein defined) of the Items of Equipment having suffered a Casualty Occurrence.

Upon making (but not until) such payment in respect of any Item or Items of Equipment no further rental shall be payable or accrue for such Item or Items of Equipment (but Lessee shall continue to pay rental for all other Items of Equipment). Upon such payment Lessee shall become the owner of such Item or Items of Equipment on an "as-is" "where-is" basis without representation or warranty, express or implied on the part of Lessor.

The "Casualty Value" of each Item of Equipment shall be deemed to be an amount determined as of the date the Casualty Value is paid as provided in this paragraph "10" (and not the date of the Casualty Occurrence) equal to the sum of (i) the present value of all fixed rentals for such Item which would

otherwise have accrued hereunder from such Casualty Value payment date to the end of the Fixed Rental Period, computed by discounting all such fixed rentals to such Casualty Value payment date, on a basis of a 4-3/4% per annum discount, compounded monthly, from the respective dates upon which fixed rentals would have been payable hereunder, plus (ii) \$450.00.

Lessee shall bear the risk of and, except as hereinabove in this paragraph "10" provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment after the date hereof and continuing until payment of the Casualty Value in respect of such Item of Equipment has been made.

In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this Lease, the Lessee's duty to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

11. Annual Reports.

On or before September 1 in each year,

commencing with the year 1971, the Lessee will furnish to the Lessor and any assignee of Lessor an accurate statement, as of the preceding July 1, (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding twelve (12) months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by paragraph "4" hereof shall have been preserved or replaced.

The Lessor or its assigns shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or its assigns the existence and proper maintenance thereof during the continuance of this Lease.

12. Return of Equipment upon Expiration of Term.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or

in the absence of such designation as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding ninety (90) days and transport the same at any time within such ninety (90) days period to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than thirty (30) days' written notice to Lessee. All movement and storage of such Item is to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same at their own risk. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment.

13. Default. If, during the continuance of this Lease, one or more of the following events ("Events of Default") shall occur:

A. Default shall be made in the payment of any part of the rental provided in Section 2 hereof and such default shall continue for ten days after notice to the Lessee;

B. The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Equipment, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Equipment within thirty (30) days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession;

C. Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for thirty (30) days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

D. A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee, and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee, or trustees appointed in such proceedings or otherwise given a status comparable to the obligations incurred by such a trustee, or trustees within thirty (30) days after such appointment, if any,

or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or

E. Any other proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and all the obligations of the Lessee, under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee, or trustees, or receiver, or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings or otherwise given a status comparable to obligations incurred by such a trustee, or trustees, or receiver, or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier.

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or



(b) by notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present value, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such

termination to the end of the term of this Lease over the then present value of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present value to be computed in each case on a basis of a 3% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rental payments due hereunder, and agrees to make the rental payments regardless of any off-set or claim which may be asserted by the

Lessee or on its behalf in connection with the lease of the Equipment.

The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14. Return of Equipment Upon Default.

If the Lessor shall terminate this Lease pursuant to paragraph 13 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

A. Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate, or in the absence of such designation, as the Lessee may select;

B. Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad for a period not exceeding one hundred eighty (180) days at the risk of the Lessee; and

C. Transport the Equipment, at any time within such one hundred eighty (180) day period, to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less

then thirty (30) days' written notice to the Lessee.

The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this paragraph "14", the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to Lessor, to demand and take possession of such Item in the name and on behalf of Lessee from whosoever shall be at the time in possession of such Item.

15. Assignments by Lessor.

This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment the rental and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. No assignee of the Lessor shall be

bound by or obligated to perform or see to the performance of any duty, covenant, condition or warranty (express or implied) made by Lessor or required to be observed or performed by Lessor under any of the terms hereof, but, on the contrary, the Lessee by its execution hereof acknowledges and agrees that notwithstanding any such assignment each and all of such duties, covenants, conditions, warranties shall survive such assignment and shall be and remain the sole liability of Lessor and of every person, firm or corporation succeeding (by merger, consolidation, purchase of assets or otherwise) to all or substantially all of the business, assets and good will of the Lessor. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the assignee) in the use, operation or possession of the equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part

of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

16. Assignments by Lessee; Use and Possession.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, sublease, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the other provisions of this paragraph "16".

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly, or by any corporation a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its

Board of Directors) is owned directly or indirectly by the Lessee, or upon lines or railroad over which the Lessee or any such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. The Lessee may receive and retain compensation for such use from other railroads so using any of the Items. No action by the Lessee permitted under the foregoing provisions of this paragraph "16" shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

Nothing in this paragraph "16" shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

17. Opinion of Counsel.

Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will deliver to the Lessor the written opinion of counsel for the Lessee

addressed to the Lessor and to the assignee, in scope and substance satisfactory to the Lessor, to the effect that:

A. The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Ohio;

B. The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

C. This Lease has been duly authorized, executed and delivered by the Lessee and constitutes the valid, legal and binding agreements of the Lessee enforceable in accordance with its terms;

D. This Lease has been filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America;

E. No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance of this Lease;



F. The execution and delivery by the Lessee of the Lease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

G. As to any other matters which Lessor shall reasonably request.

18. Notices.

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, addressed as follows:

If to the Lessor:	120 Delaware Avenue Buffalo, New York
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If to the Lessee:	The Akron, Canton & Youngs- town Railroad Company Akron, Ohio 44308
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or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

19. Execution in Counterparts.

This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

20. Law Governing.

This Lease shall be construed in accordance with the laws of New York; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

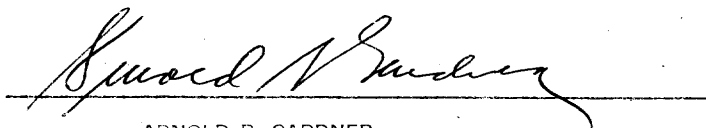
IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

(Corporate Seal) A. A. MORRISON CO., INC.  
By Julian L. Morrison  
President LESSOR  
Attest: [Signature]  
Secretary

(Corporate Seal) THE AKRON, CANTON & YOUNGSTOWN  
RAILROAD COMPANY  
By [Signature]  
LESSEE  
Attest: [Signature]

STATE OF NEW YORK    )  
                              : SS.  
COUNTY OF ERIE        )

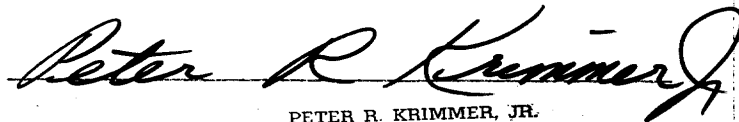
On this 4<sup>th</sup> day of June, 1970, before me,  
personally appeared JULIAN L. S. MORRISON, to me personally known,  
who, being by me duly sworn, says that he is the President of  
A. A. MORRISON CO., INC., the corporation described in, and which  
executed, the foregoing instrument; that he knows the seal of  
said corporation; that the seal affixed to said instrument is  
such corporate seal; that it was so affixed by order of the  
Board of Directors of said corporation; and that he signed his  
name thereto by like order.



ARNOLD B. GARDNER  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires March 30, 1972

STATE OF OHIO         )  
                              : SS.  
COUNTY OF Summit    )

On this 8<sup>th</sup> day of June, 1970, before me,  
personally appeared E. R. Mastetter to me personally  
known, who, being by me duly sworn, says that he is the President  
and General Manager of THE AKRON, CANTON & YOUNGSTOWN RAILROAD  
COMPANY, the corporation described in, and which executed, the  
foregoing instrument; that he knows the seal of said corporation;  
that the seal affixed to said instrument is such corporate seal;  
that it was so affixed by order of the Board of Directors of said  
corporation; and that he signed his name thereto by like order.



PETER R. KRIMMER, JR.  
Notary Public, Summit County, Ohio  
My Commission Expires June 22, 1970

3501	3552	3602	3652
3502	3553	3603	3653
3503	3554	3604	3654
3504	3555	3605	3655
3505	3556	3606	3656
3506	3557	3608	3657
3507	3558	3609	3658
3508	3559	3610	3659
3509	3560	3611	3660
3510	3561	3612	3661
3511	3562	3613	3662
3512	3563	3614	3663
3513	3564	3615	3664
3514	3565	3616	3665
3517	3566	3617	3666
3518	3567	3618	3667
3519	3568	3619	3668
3520	3569	3620	3669
3521	3570	3621	3670
3522	3571	3622	3671
3523	3572	3623	3672
3524	3573	3624	3673
3525	3574	3625	3674
3526	3575	3626	3675
3527	3576	3627	3676
3528	3577	3628	3677
3529	3578	3629	3678
3530	3579	3630	3679
3531	3580	3631	3680
3532	3581	3632	3681
3533	3582	3633	3682
3534	3583	3634	3683
3535	3584	3635	3684
3536	3585	3636	3685
3537	3587	3637	3686
3538	3588	3638	3687
3539	3589	3639	3688
3540	3590	3640	3689
3541	3591	3641	3690
3542	3592	3642	3691
3543	3593	3643	3692
3544	3594	3644	3693
3545	3595	3645	3694
3546	3596	3646	3695
3547	3597	3647	3696
3548	3598	3648	3697
3549	3599	3649	3698
3550	3600	3650	3699
3551	3601	3651	3700

Exhibit "A"